

PARENTING PLAN MEDIATION

You Are Required to Read This Document!

The Rules of Family Court, and the Family Court Order directing you to Mediation require you to read this document, or have someone read it to you.

WHY ARE YOU REQUIRED TO READ THIS DOCUMENT?

The Family Court requires you to read this document because you need to know how Parenting Plan Mediation will work in your case. Parenting Plan Mediation is important to you and your spouse, and to your child(ren), because Mediation can help you and your spouse agree on a Parenting Plan, and agreeing on a Parenting Plan is probably the most important thing you and your spouse will do in your divorce or family law case.

After you have read this document, or had someone read it to you, you must sign the acknowledgment at the end of the document.

WHY HAS YOUR CASE BEEN DIRECTED TO MEDIATION?

West Virginia law requires that parents of minor children have a Parenting Plan in all divorce cases, and if the parents are unable to agree on a Parenting Plan, the law requires the Family Court to determine if Mediation can help the parents agree. That's why the Court referred you and your spouse to the Premediation Screener. The Screener decided Mediation would be helpful in your case, and that's why the Court directed you and your spouse to a Mediator.

WHAT IS MEDIATION?

Mediation is a method for helping people resolve disagreements. A neutral third party, the Mediator, helps two disagreeing people find ways to reach an agreement that is fair and acceptable to both persons. In your Parenting Plan Mediation, the Mediator will meet with you and your spouse, listen to everything the two of you have to say, and then help you explore ways to agree on a Parenting Plan. Mediation has an excellent success rate, and there is a good possibility you and your spouse can come out of Mediation with an agreement.

Mediation is quite different from Court proceedings. Court proceedings are often adversarial, which means the process places disagreeing people in opposition to each other. From these positions of opposition each side argues its case to the Court, and argues against the other side's case. Mediation is cooperative, not adversarial. With the help of the Mediator, the two persons in a disagreement work together to find a way to settle their differences. Court proceedings are formal. Mediation is informal. A Court makes decisions, and imposes those decisions on the parties. A Mediator does not make decisions, and does not impose decisions on the parties. All agreements reached in Mediation must be completely acceptable to both parties, or there is no agreement. If you have a lawyer representing you in your divorce or family law case, the lawyer can participate in Mediation. If you don't have a lawyer, that's okay. Mediation works with or without lawyers. Mediation is confidential. The Mediator will not disclose anything that goes on in Mediation to the Family Court Judge, or to any other person.

HOW WILL THE MEDIATION BE CONDUCTED IN YOUR CASE?

The Mediator will explain the ground rules at the beginning of the Mediation session. These are some of the things he or she will tell you. It is important for you and your spouse to be open and honest about your disagreements. It is important for you and your spouse to respect each other, and to conduct yourselves in a courteous manner. It is important for both of you to be willing to listen, to be flexible, and to be open to suggestions for settling disagreements. It is important for both of you to work together to try to find ways to agree on a Parenting Plan that is in the best interests of your child(ren).

HOW SHOULD YOU PREPARE FOR MEDIATION?

Be prepared to fully explain your concerns and disagreements in an open and frank manner. Be prepared to propose solutions. Make a written list of the things you want to discuss.

HOW LONG WILL MEDIATION TAKE?

Most Mediation sessions last two to three hours. Most Mediation is concluded after one session. If you and your spouse are making progress toward an agreement, the Mediator may suggest a second session.

HOW MUCH WILL MEDIATION COST?

The Family Court Order directing your case to Mediation tells you what the Mediation fee will be in your case. The amount of your Mediation fee is based on the amount of money you have. If you filed an Affidavit asking for a Waiver of fees and costs, and the Court accepted your Affidavit, you will not be charged a Mediation fee.

WHAT HAPPENS IF YOU AND YOUR SPOUSE CAN'T REACH A PARENTING PLAN AGREEMENT THROUGH MEDIATION?

If you and your spouse do not reach an agreement as a result of Mediation, the Mediator will report that situation to the Family Court Judge, and you and your spouse will return to Court for a Hearing, or a series of Hearings at which the Court will hear arguments about the Parenting Plan. When the Court has heard everything it needs to hear, it will decide what the terms and conditions of your Parenting Plan will be, and the Plan will become binding, and will remain in effect until there is some reason to change it, or until your child(ren) are old enough to leave your care.

WHAT HAPPENS IF MEDIATION HELPS YOU AND YOUR SPOUSE AGREE ON A PARENTING PLAN?

If you and your spouse reach an agreement on a Parenting Plan as a result of Mediation, the Mediator will put the agreement in writing, and send copies to you and your spouse, and to the Court. As the Mediator will tell you at the conclusion of Mediation, the agreement does not take effect and become binding until the Court accepts it. In other words, you can change your mind after Mediation has concluded. If you do change your mind, you need to tell the Court, as soon as possible, when you come to the Hearing the Court will hold to review your agreement. Be prepared to present your evidence if you change your mind after the conclusion of Mediation. The Court may require both you and the other parent to present any and all evidence at the scheduled Hearing regarding parenting time for the child(ren). The Court may have to continue the scheduled hearing and reschedule a Hearing to allow you and the other parent to present evidence regarding parenting time of the child(ren). If you change your mind the Court will not hold you to the mediated agreement or review the mediated agreement submitted by the Mediator.

The Court will review your mediated agreement to determine if it is in the best interests of your children, and contains all necessary provisions. At the Hearing on the agreement the Court will question you and your spouse to make sure both of you know exactly what is in the agreement, that both of you are making the agreement voluntarily, and that neither of you have changed your mind since Mediation concluded. The Court will look at the agreement to determine how much time the child(ren) will spend with each parent, and the Court will tell you what the amount of child support will be based on those arrangements. By way of comparison, the Court will tell you what the amount of child support would be if the child(ren) spent all of their time with one parent. After you have heard the comparison of these two amounts of child support, the Court will ask if the agreement is still acceptable. If both of you say it is, and the Court finds no reason to modify or reject it, the agreement will become binding, and will remain in effect until there is some reason to change it, or until your child(ren) are old enough to leave your care.

Acknowledgement,

I, _____, have read this document, or had it read to me.
(Print your Name)

Signature

Date